

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 2027 of 2005****For Approval and Signature:****HONOURABLE MR.JUSTICE A.L.DAVE**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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THAKOR CHANDAJI SOMAJI - Appellant(s)

Versus

SPECIAL LAND ENGINEER ACQUISITION OFFICER & 1 - Defendant(s)

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Appearance :

MR AJ PATEL for Appellant(s) : 1,
NOTICE SERVED BY DS for Defendant(s) : 1,
RULE SERVED BY DS for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE A.L.DAVE

Date : 05/12/2005

ORAL JUDGMENT

Appeal is admitted. Learned Asst. Government Pleader, Mr.R.M.Chauhan, waives service of process of admission on behalf of the respondents.

2.Since the issues arising for determination by this Court are covered by earlier judgments, the matter is taken up for final hearing with the consent of parties.

3.This is an appeal under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure 1908, preferred by the original land owner of village Meda Adaraj of Tal.Kadi, in respect of land bearing Block No.251/1/B, ad-measuring 2587 square meters, of village Adaraj, which came to be acquired for the purpose of 'Narmada Canal' by the respondent – authorities.

4.A Notification under Section 4 was published on 9th April, 1993 followed by Notification under Section 6 on 24/8/1994 and award dated 15/4/1996. The Special Land Engineer Acquisition Officer awarded compensation of Rs.3.60 paise per square meter. Aggrieved by the same, the land owner, i.e. the appellant, got the matter referred to the District Court, which was registered as Reference Case No.540 of 2001 at Mehsana. The Reference Court after considering the evidence led before it awarded further compensation of Rs.24.40 Paise per square meter, totaling to a compensation of Rs.28/- per square meter. The Reference Court has

refused to award interest on additional amount payable under Section 23 (1) (a) of the Act, so also, the amount of solatium under Section 23 (2) of the Act. The Court also ordered that the claimant will not be entitled to solatium on additional amount under Section 23 (1) (a) of the Act.

5. Aggrieved by the said judgment and award, present appeal is preferred.

6. Learned Senior Advocate, Mr. Patel, for the appellant has drawn attention of this Court to the fact that land of this very village were acquired by notification dated 10/5/1992 and Reference Court by judgment dated 11/9/2000 awarded compensation of Rs.28/- per square meter. The said award was challenged by the State by preferring First Appeal Nos.4319 to 4372 of 2001 with Cross Objections No.74 to 127 of 2001 and this Court by judgment dated 11/10/2001 accepted the cross objections and raised the compensation at Rs.30/- per square meters. Learned Advocate, Mr. Patel, therefore, submitted that the appellant would be entitled to total compensation of Rs.30/- per square meter, instead of Rs.28/- per square meter awarded by the Reference Court.

6. Learned Advocate, Mr. Patel, submitted that the question of interest is covered by the judgment of Apex Court in the case of Sundar Vs. Union of India (2001 SOL Case No. 551) and, therefore, the Reference Court committed an error in not awarding interest on the amount of solatium. Learned Advocate, Mr. Patel, submitted that this appeal may be allowed.

7. Learned Asst. Government Pleader, Mr. Chauhan, has opposed this appeal.

8. This Court has taken into consideration the judgment and award of the Reference Court and reasonings adopted by it. It is not in dispute that lands of this very village were acquired by notification dated 11/5/1992 and this Court while considering the question of compensation assessed the compensation at Rs.30/- per square meter to be just, while disposing of the said appeals and Cross Objections on 11/10/2001. The appeals were preferred by the State, which were dismissed. Whereas, the cross objections by the land owners were accepted.

9. It is noticed that Land Reference Case No. 541, 542 and

543 of 2001 were disposed of by the Reference Court by the common judgment. However, the land owners in respect of those reference cases have chosen not to challenge the award given by the Reference Court by preferring any appeal as per statement made at the bar by learned Advocate, Mr. Patel.

10. In this set of fact situation, the Court would be required to fall back on the compensation awarded in respect of lands of same village acquired by notification under Section 4 dated 11/5/1992. It is indicated by copy of the judgment of this High Court that an amount of Rs.30/- per square meter has been awarded. There are no reasons to take a different view than the view taken by Division Bench of this Court in respect of that acquisition.

11. In the opinion of this Court, therefore, the claimants would be entitled to a total compensation of Rs.30/- per square meter in respect of Block No.251/1/B, ad-measuring 2587 square meters of land.

12. Now, comes the question as to entitlement of the appellant on interest. The Reference Court came to a conclusion that the claimant shall not be entitled to

interest on award of additional amount payable under Section 23 (1) (b) or 23 (2) of the Land Acquisition Act. These observations have aggrieved the appellant. The question is squarely covered by a decision of the Apex court in case of **Sunder Vs. Union of India 2001 (3) G.L.H. 446** where Expression, "awarded amount" has been explained, means all the amount of compensation worked out under Section 23 of the Land Acquisition Act. After this interpretation the appellant would be entitled to interest @ 9% for the first year and 15% thereafter till the amount is paid, on the amount of compensation.

13.Appeal therefore, stands allowed accordingly.

(A.L.DAVE, J.)

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